

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6632 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements? No
2. To be referred to the Reporter or not? No :
3. Whether Their Lordships wish to see the fair copy : YES
of the judgement? No
4. Whether this case involves a substantial question : YES
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No :

LEGAL HEIRS & REPRESENTATIVE OF DECEASED

Versus

STATE OF GUJARAT

Appearance:

Yatin S.Soni, advocate for Petitioners
Mr. R.C.Kodekar, A.G.P. for Respondents

CORAM : MR.JUSTICE J.M.PANCHAL and
MR.JUSTICE M.H.KADRI

Date of decision: 13/09/1999

ORAL JUDGEMENT

(Per : Panchal, J.)

Rule. Mr. R.C.Kodekar, learned A.G.P. waives
service of notice of rule on behalf of the respondents.

Having regard to the facts of the case, the petition is taken-up for final hearing today.

By means of filing this petition under Article 226 of the Constitution, the petitioners have prayed to issue an appropriate writ or order directing the respondents to make payment of compensation to the petitioners as per award dated September 12, 1997 passed by the respondent no.2 and to direct the respondents to comply with the directions which were issued by the High Court in Special Civil Application No. 1027/99, immediately.

The respondent no.2 has redetermined the amount of compensation payable to the petitioners on the basis of the award of the Court by making award under section 28(1)(A) of the Land Acquisition Act, 1894 in September, 1997. The amount of compensation which was redetermined was not paid to the petitioners. Hence, the petitioners were constrained to file Special Civil Application No.1027/99 in the High Court, wherein prayer was made to direct the respondents to make payment of redetermined compensation to the petitioners immediately. In the said petition, following order was passed by the High Court on March 1, 1999 :-

"Mr. H.L.Jani, learned A.G.P. on instructions states that the respondent no.3 will endeavour to make payment of compensation to the petitioners as early as possible and preferably within two months from today. Having regard to the facts of the case, respondent no.3 is directed to make payment of compensation to the petitioners as early as possible and preferably within two months from today. In view of the above-referred to directions, the learned advocate for the petitioners seeks permission to withdraw this petition. Permission as prayed for is granted. Notice is discharged with no order as to costs. Petition stands disposed of as withdrawn."

The grievance made by the petitioners in the present petition is that inspite of the directions given by the High Court, the respondents have not made payment of compensation as per the award made under section 28(1)(A) of the Land Acquisition Act, 1894. Under the circumstances, the petitioners have filed present petition and claimed reliefs to which reference is made earlier.

On service of notice, Mr. P.B.Solanki, Executive Engineer, H.I. Division, Himatnagar has filed affidavit-in-reply and explained as to why order passed by the High Court on March 1, 1999 in Special Civil Application No. 1027/99 could not be complied with.

We have heard the learned Counsel for the parties. From the different documents which have been annexed with the affidavit-in-reply, it is evident that Executive Engineer, H.I.Division, Himatnagar had taken appropriate steps for the purpose of making payment of compensation as per the award made under section 28(1)(A) of the Land Acquisition Act, 1894, however, the amount could not be paid to the petitioners because of certain queries which were raised by the Section Officer, Narmada Water Resources and Water Supply Department. In view of the order passed by the High Court, Section Officer of the said Department should not have delayed payment of compensation to the petitioners by raising unnecessary and uncalled for queries. It may be stated that a copy of the order of the High Court which was passed in Special Civil Application No. 1027/99 was sent by the Superintending Engineer, Ahmedabad Irrigation Project Circle, Ahmedabad to Narmada Water Resources and Water Supply Department. Therefore, the said department should have taken appropriate steps to see that the order passed by the High Court was complied with and should not have raised unnecessary queries. However, in view of the explanation offered by the Executive Engineer, H.I. Division, Himatnagar in his affidavit-in-reply, we do not think it proper to initiate any action against any of the respondents. Mr. R.C.Kodekar, learned A.G.P. on instructions of Mr. B.K.Patel, Deputy Engineer, H.I. Division, Himatnagar, who is personally present in the Court, has stated at the bar that the amount of compensation shall be paid to the petitioners by Executive Engineer, H.I. Division, Himatnagar within one month from today and, therefore, the petition be disposed of after giving necessary directions to respondent no.3.

Having regard to the facts of the case, respondent no.3 is hereby directed to make payment of compensation as per the award made by respondent no.2 under section 28(1)(A) of the Land Acquisition Act, 1894 as early as possible and latest before October 16, 1999. It is made clear that if the amount of compensation is not paid to the petitioners by the specified date, appropriate proceedings will have to be initiated against the respondents for the contempt of Court. Rule is made absolute accordingly, with no order as to costs.

Office is directed to send copy of this judgment
to Officer on Special Duty, Narmada Water Resources and
Water Supply Department, "J-1" Branch, Sachivalaya,
Gandhinagar immediately for necessary compliance.
